

Example (2). County N Volunteer Fire Department provides firefighting services in County N by contract with the county, which is not served by any other firefighting association. On June 15, 1982, County N Volunteer Fire Department issues its obligation for funds to construct an addition to its firehouse to house a rescue squad, the rescue squad's vehicle, and rescue equipment not to be used in firefighting. Although the County N Volunteer Fire Department is a qualified volunteer fire department under paragraph (b) of this section, interest on its June 15, 1982, obligation will not be exempt from tax under section 103(i) and this section because the proceeds of this obligation will not be used for the purposes described in paragraph (a) of this section.

Example (3). The County O Volunteer Fire and Rescue Association provides firefighting, ambulance, and emergency medical services in County O. The board of county commissioners of County O contracts with the County O Volunteer Fire and Rescue Association for these services, and County O is not served by any other firefighting association. On September 1, 1983, the Association issues its obligations for funds to construct a new building to house its firefighting, ambulance, and rescue functions. Although the ambulance and rescue equipment will occupy space in the projected facility, the cost allocable on a pro rata basis to providing housing for the ambulance and rescue equipment represents less than 10 percent of the proceeds of the obligations. Thus, substantially all of the proceeds of the obligations are used for one of the purposes described in paragraph (a)(2) of this section. The County O Volunteer Fire and Rescue Association is a qualified volunteer fire department under paragraph (b) of this section because it provides firefighting and emergency medical services in an area within County O which is not provided with any other firefighting services and is required to provide these services by written agreement with County O. The obligations of County O Volunteer Fire and Rescue Association will be treated as obligations of a political subdivision of a State under section 103(i) and paragraph (a) of this section because the obligations are those of a qualified volunteer fire department and because substantially all of the proceeds of the obligations are to be used for a purpose described in section 103(i)(1)(B) and paragraph (a)(2) of this section. Accordingly, interest on the September 1, 1983, issue of obligations of County O Volunteer Fire and Rescue Association is exempt from gross income under section 103(a)(1).

[T.D. 7901, 48 FR 32981, July 20, 1983]

§ 1.103(n)-1T Limitation on aggregate amount of private activity bonds (temporary).

Q-1: What does section 103(n) provide?

A-1: Interest on an issue of private activity bonds will not be tax exempt unless the aggregate amount of bonds issued pursuant to that issue, when added to (i) the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year and (ii) the portion of that year's private activity bond limit that the issuing authority has elected to carry forward to a future year, does not exceed the issuing authority's private activity bond limit for that calendar year. See A-4 of § 1.103(n)-4T with respect to private activity bonds issued under a carryforward election.

Q-2: What is the effective date of section 103(n)?

A-2: In general, section 103(n) applies to private activity bonds issued after December 31, 1983. Section 103(n) does not apply to any issue of obligations, however, if there was an inducement resolution (or other comparable preliminary approval) for the project before June 19, 1984, and the issue for such project is issued before January 1, 1985. An issue of obligations will be considered to be issued for the project pursuant to the inducement resolution in existence before June 19, 1984, to the extent that the nature, character, and purpose of the facility has not changed in any material way, and to the extent that the capacity of the facility has not increased materially; in addition, the issue of obligations must be for the same or a related initial owner, manager, or operator. See § 1.103-10(e) for the definition of related persons. See A-16 of § 1.103(n)-3T with respect to certain projects preliminarily approved before October 19, 1983. The transitional rules provided by section 631(c) of the Tax Reform Act of 1984 do not apply to section 103(n). See § 1.103-13(b)(6) for the rules relating to the date of issue of obligations.

Q-3: If an issue of private activity bonds causes the issuer's private activity bond limit to be exceeded, what is the effect on that issue?

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A-3: If an issue of private activity bonds causes the issuing authority's private activity bond limit to be exceeded, no portion of that issue will be treated as obligations described in section 103(a), and interest paid on the issue will be subject to Federal income taxation.

Q-4: If an issue of private activity bonds causes the issuer's private activity bond limit to be exceeded, what is the effect on previous issues of private activity bonds that met the requirements of section 103(n) when issued?

A-4: Private activity bonds issued as part of an issue that met the private activity bond limit when issued continue to meet the requirements of section 103(n) even though a subsequent issue causes the aggregate amount of private activity bonds issued by an issuing authority to exceed the authority's private activity bond limit for the calendar year.

Example. The following example illustrates the provisions of A-3 and A-4 of this § 1.103(n)-1T:

Example. The State ceiling for State Z for 1986 is \$200 million. City M, within the State, and State Z itself are authorized to issue private activity bonds. Under the allocation formula provided by the Governor of State Z, City M has a private activity bond limit of \$50 million; the balance of the State ceiling is allocated to State Z. On June 1, 1986, City M issues a \$75 activity bonds. On September 1, 1986, State Z issues a \$150 million issue of private activity bonds. Based on these facts, the obligations of City M do not meet the requirements of section 103(n) since the aggregate amount of private activity bonds issued by City M in 1986 exceeded its private activity bond limit for such year; thus, such obligations are not described in section 103(a). That the State Z issue caused the aggregate amount of private activity bonds issued in the State during 1986 to exceed the State ceiling does not cause such obligations to fail to meet the requirements of section 103(n).

Q-5: What is the aggregate amount of private activity bonds issued as part of an issue?

A-5: The aggregate amount of private activity bonds issued as part of an issue is the face amount of the issue.

(Secs. 103(n) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 916, 26 U.S.C. 103(n); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7981, 49 FR 39316, Oct. 5, 1984]

§ 1.103(n)-2T Private activity bond defined (temporary).

Q-1: What is the definition of the term "private activity bond"?

A-1: In general, for purposes of §§ 1.103(n)-1T through 1.103(n)-6T, the term "private activity bond" means any industrial development bond or student loan bond the interest on which is exempt from tax under section 103(a) (without application of section 103(n)). See § 1.103-7(b) for the definition of the term "industrial development bond." See A-17 of this § 1.103(n)-2T for the definition of the term "student loan bond." There are five exceptions to the general definition of the term "private activity bond"; the exceptions include the exception for the Texas Veterans' Bond Program, the residential rental property exception, the exception for certain facilities described in section 103(b)(4) (C) or (D), and the refunding obligation exception. These exceptions are described in A-2 through A-16 of this § 1.103(n)-2T. In addition, the term "private activity bond" does not include any issue of obligations if there was an inducement resolution (or other comparable preliminary approval) for the project before June 19, 1984, and the issue for that project is issued before January 1, 1985. See A-2 of § 1.103(n)-1T.

Q-2: To which obligations does the exception for the Texas Veterans' Bond Program apply?

A-2: The term "private activity bond" does not include general obligation bonds issued under the Texas Veterans' Bond Program if the proceeds of the issue, other than an amount that is not a major portion of the proceeds, are used to make loans of up to \$20,000 for the purchase of land for purposes authorized by such program as in effect on June 19, 1984. The use of the proceeds may be established by the affidavit of the veteran receiving the loan. For purposes of this exception to the definition of the term "private activity bond," the use of more than 25 percent of the proceeds of an issue of obligations will constitute the use of a major portion of such proceeds.

Q-3: To which obligations does the residential rental property exception apply?